

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: OFFICE OF CONSUMER ADVOCATE, Complainant, vs. McLEODUSA TELECOMMUNICATIONS, INC., Respondent.	DOCKET NO. FCU-04-6
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**ORDER DOCKETING FOR FORMAL PROCEEDING
AND REQUESTING RESPONSE**

(Issued February 20, 2004)

On January 26, 2004, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to impose civil penalties pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution in C-03-257, involving McLeodUSA Telecommunications, Inc. (McLeod), and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings (which are a part of the record in this proceeding pursuant to 199 IAC 6.7), it appears the events to date can be summarized as follows:

On November 20, 2003, Ms. Tracy Horn filed a complaint with the Board alleging that she was induced to switch her local telephone service from Qwest Corporation (Qwest) to McLeod by a telemarketer who represented that McLeod's rates for the same services were lower than those offered by Qwest. Ms. Horn alleged that based on this offer, she switched her local telephone service, which included call waiting and caller ID services, but McLeod did not make good on the offer. Board staff identified the matter as C-03-257 and, pursuant to Board rules, on November 26, 2003, forwarded the complaint to McLeod for response.

McLeod responded to the complaint on December 2, 2003, stating that its records showed that Ms. Horn agreed to the "OneLine Preferred Package," which did not include the caller ID feature, at a rate of \$21.95 per month, and McLeod provided a copy of the third-party verification recording. McLeod also stated that Ms. Horn was offered another package that included the features she wanted, but that Ms. Horn chose to return to Qwest. Finally, McLeod stated that Ms. Horn's account with McLeod was closed and as a courtesy to Ms. Horn, McLeod fully credited Ms. Horn's account for the installation charge.

On January 12, 2004, Board staff issued a proposed resolution describing these events and proposing that the credit offered by McLeod represented a fair resolution of the situation. Consumer Advocate has challenged the staff's proposed resolution.

In its January 26, 2004, petition, Consumer Advocate asserts that the proposed resolution is not supported by the facts of the underlying complaint and that sufficient reasons exist to merit an investigation into the matter. In addition, Consumer Advocate asserts that other slamming complaints received by Board staff have named McLeod as the alleged violating company. Consumer Advocate requests that the Board docket this complaint for a formal proceeding and impose civil penalties on McLeod. McLeod has not responded to Consumer Advocate's petition.

The Board has reviewed the record to date as well as the additional slamming complaints made against McLeod and finds that there is sufficient information to warrant further investigation in this matter. The Board will delay establishing a procedural schedule until March 29, 2004, and allow McLeod an opportunity to respond to the allegations raised in Consumer Advocate's petition.

IT IS THEREFORE ORDERED:

1. The "Petition for Proceeding to Impose Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on January 26, 2004, is granted and docketed for formal proceeding.

2. McLeodUSA Telecommunications, Inc., is requested to file a response to the petition filed by Consumer Advocate on January 26, 2004, on or before March 29, 2004.

UTILITIES BOARD

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 20th day of February, 2004.